

AMENDED IN SENATE JULY 8, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 375**

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**Introduced by Assembly Member Campos**

February 18, 2015

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An act to ~~amend~~ *add* Section ~~44977~~ of 44977.5 to the Education Code, relating to school employees.

### LEGISLATIVE COUNSEL'S DIGEST

AB 375, as amended, Campos. School employees: sick leave: paternity and maternity leave.

Under existing law, when a certificated school employee exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of *up to 5* school months, the employee during ~~those 5 months~~ *that additional period* receives the difference between his or her salary and the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed.

This bill would ~~instead~~ *additionally* provide the differential pay benefit described above *for up to 12 weeks* if the certificated school employee is absent on account of ~~illness, accident, paternity leave, or maternity or paternity leave, as defined~~, as specified. *The bill would provide that the 12-week period be reduced by any period of sick leave, including accumulated sick leave, during a period of maternity or paternity leave.* The bill would prohibit a certificated school employee on maternity or

paternity leave pursuant to the Moore-Brown-Roberti Family Rights Act from being denied access to differential pay while on that leave. The bill would provide that, to the extent these ~~changes~~ *provisions* conflict with any provision of a collective bargaining agreement entered into before January 1, 2016, by a public school employer and an exclusive bargaining representative, ~~the changes~~ *these provisions* shall not apply until the expiration or renewal of that collective bargaining agreement.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 44977.5 is added to the Education Code,*  
2     *to read:*  
3     *44977.5. (a) During each school year, when a person employed*  
4     *in a position requiring certification qualifications has exhausted*  
5     *all available sick leave, including all accumulated sick leave, and*  
6     *continues to be absent from his or her duties on account of*  
7     *maternity or paternity leave pursuant to Section 12945.2 of the*  
8     *Government Code for a period of up to 12 school weeks, whether*  
9     *or not the absence arises out of or in the course of the employment*  
10    *of the employee, the amount deducted from the salary due him or*  
11    *her for any of the additional 12 weeks in which the absence occurs*  
12    *shall not exceed the sum that is actually paid a substitute employee*  
13    *employed to fill his or her position during his or her absence or,*  
14    *if no substitute employee was employed, the amount that would*  
15    *have been paid to the substitute had he or she been employed. The*  
16    *school district shall make every reasonable effort to secure the*  
17    *services of a substitute employee.*  
18    *(b) For purposes of subdivision (a):*  
19    *(1) The 12-week period shall be reduced by any period of sick*  
20    *leave, including accumulated sick leave, taken during a period of*  
21    *maternity or paternity leave pursuant Section 12945.2 of the*  
22    *Government Code.*  
23    *(2) An employee shall not be provided more than one 12-week*  
24    *period per maternity or paternity leave. However, if a school year*  
25    *terminates before the 12-week period is exhausted, the employee*  
26    *may take the balance of the 12-week period in the subsequent*  
27    *school year.*

1 (3) *An employee on maternity or paternity leave pursuant to*  
2 *Section 12945.2 of the Government Code shall not be denied access*  
3 *to differential pay while on that leave.*

4 (c) *This section shall be applicable whether or not the absence*  
5 *from duty is by reason of a leave of absence granted by the*  
6 *governing board of the employing school district.*

7 (d) *To the extent that this section conflicts with a provision of*  
8 *a collective bargaining agreement entered into by a public school*  
9 *employer and an exclusive bargaining representative before*  
10 *January 1, 2016, pursuant to Chapter 10.7 (commencing with*  
11 *Section 3540) of Division 4 of Title 1 of the Government Code,*  
12 *this section shall not apply until expiration or renewal of that*  
13 *collective bargaining agreement.*

14 (e) *For purposes of this section, “maternity or paternity leave”*  
15 *means leave for reason of the birth of a child of the employee, or*  
16 *the placement of a child with an employee in connection with the*  
17 *adoption or foster care of the child by the employee.*

18 **SECTION 1.** ~~Section 44977 of the Education Code is amended~~  
19 ~~to read:~~

20 ~~44977. (a) During each school year, when a person employed~~  
21 ~~in a position requiring certification qualifications has exhausted~~  
22 ~~all available sick leave, including all accumulated sick leave, and~~  
23 ~~continues to be absent from his or her duties on account of illness,~~  
24 ~~accident, paternity leave, or maternity leave for an additional period~~  
25 ~~of five school months, whether or not the absence arises out of or~~  
26 ~~in the course of the employment of the employee, the amount~~  
27 ~~deducted from the salary due him or her for any of the additional~~  
28 ~~five months in which the absence occurs shall not exceed the sum~~  
29 ~~that is actually paid a substitute employee employed to fill his or~~  
30 ~~her position during his or her absence or, if no substitute employee~~  
31 ~~was employed, the amount that would have been paid to the~~  
32 ~~substitute had he or she been employed. The school district shall~~  
33 ~~make every reasonable effort to secure the services of a substitute~~  
34 ~~employee.~~

35 ~~(b) For purposes of subdivision (a):~~

36 ~~(1) The sick leave, including accumulated sick leave, and the~~  
37 ~~five-month period shall run consecutively.~~

38 ~~(2) An employee shall not be provided more than one five-month~~  
39 ~~period per illness, accident, paternity leave, or maternity leave.~~  
40 ~~However, if a school year terminates before the five-month period~~

1 is exhausted, the employee may take the balance of the five-month  
2 period in a subsequent school year.

3 ~~(3) An employee on maternity or paternity leave pursuant to~~  
4 ~~Section 12945.2 of the Government Code shall not be denied access~~  
5 ~~to differential pay while on that leave.~~

6 ~~(e) The governing board of every school district shall adopt a~~  
7 ~~salary schedule for substitute employees. The salary schedule shall~~  
8 ~~indicate a salary for a substitute for all categories or classes of~~  
9 ~~certificated employees of the school district.~~

10 ~~(d) Excepting in a school district the governing board of which~~  
11 ~~has adopted a salary schedule for substitute employees of the school~~  
12 ~~district, the amount paid the substitute employee during any month~~  
13 ~~shall be less than the salary due the employee absent from his or~~  
14 ~~her duties.~~

15 ~~(e) When a person employed in a position requiring certification~~  
16 ~~qualifications is absent from his or her duties on account of illness~~  
17 ~~for a period of more than five school months, or when a person is~~  
18 ~~absent from his or her duties for a cause other than illness, the~~  
19 ~~amount deducted from the salary due him or her for the month in~~  
20 ~~which the absence occurs shall be determined according to the~~  
21 ~~rules and regulations established by the governing board of the~~  
22 ~~school district. The rules and regulations shall not conflict with~~  
23 ~~rules and regulations of the state board.~~

24 ~~(f) This section shall not be construed as to deprive a school~~  
25 ~~district, city, or city and county of the right to make any reasonable~~  
26 ~~rule for the regulation of accident or sick leave or cumulative~~  
27 ~~accident or sick leave without loss of salary for persons acquiring~~  
28 ~~certification qualifications.~~

29 ~~(g) This section shall be applicable whether or not the absence~~  
30 ~~from duty is by reason of a leave of absence granted by the~~  
31 ~~governing board of the employing school district.~~

32 ~~(h) To the extent that the changes made to this section by~~  
33 ~~Assembly Bill 375 of the 2015–16 Regular Session conflicts with~~  
34 ~~a provision of a collective bargaining agreement entered into by~~  
35 ~~a public school employer and an exclusive bargaining~~  
36 ~~representative before January 1, 2016, pursuant to Chapter 10.7~~  
37 ~~(commencing with Section 3540) of Division 4 of Title 1 of the~~  
38 ~~Government Code, the changes made to this section by Assembly~~

- 1 ~~Bill 375 of the 2015–16 Regular Session shall not apply until~~
- 2 ~~expiration or renewal of that collective bargaining agreement.~~

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